194

Department of Revenue

OFFICE Asst. Rel. Offr.

STATION

No. 954

Dated 7-4-40

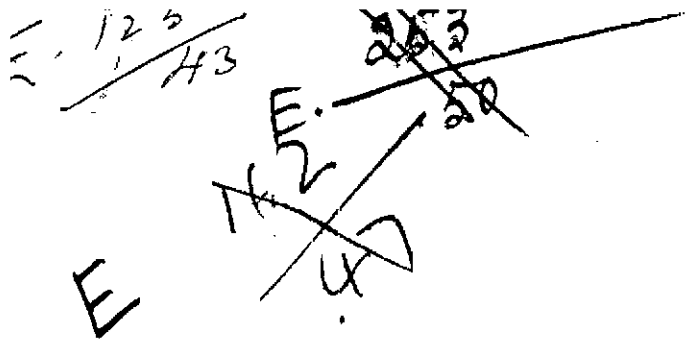
E 704/

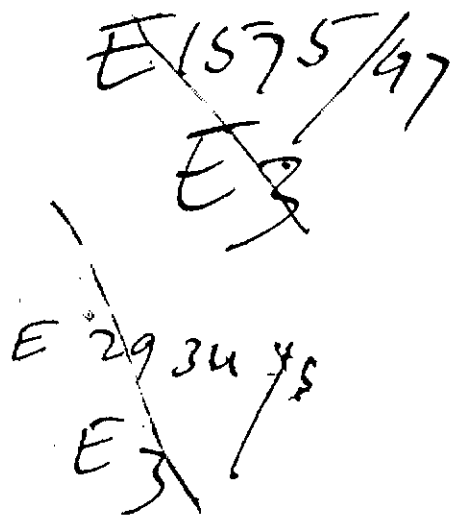
1940

Pages in the file C F 4
N R 5

(SUBJECT.)

Alienation - Land - (S. Kanara) - Kumaki
Rights of Kumakidar - Restrictions as





C.No. 753-40-B3. South Kanara Collector's Office,

Mangalore, dated 27 - 1 - 1940.

A. C. Woodhouse, Esquire, C.I.E.,

Collector of South Kanara.

The Secretary to the Board,

Land Revenue and Irrigation,

Madras.

Sir,

Alienation - land - Puttur Taluk - Vittal village - S.No. 459/11 - Kumaki land -Fish market -Panchayat Board Vittal - proposal -instructions solicited.

The President, Panchayat Board, Vittal, applied for the alienation of R.S.No. 459/11 of Vittal village for the purpose of a Fish market. The plot stands registered as assessed waste and forms common kumaki to the owners of the adjoining kadim lands. The kumakidars objected to the alienation. The alienation proposal was however dropped as the enquiry showed that the market site was not approved by the Health Department and that the Panchayat Board had not on hand sufficient funds for the erection of suitable buildings for the market.

2. In this connection, I solicit the Board's orders whether an application for kumaki land for a public purpose overrides the rights of kumakidar if (a) the land is not applied for by kumakidars before the application for alienation is received and (b) if the land is applied for by the kumakidars on darkhast and a local body applies for its alienation about the same time. The records of this office D.Dis.5261-39 dated 21-12-[illegible] are enclosed.

For Collector.

27-1-40

(F.W.S.)

Alienation - Land - (S. Kanara) Puttur Taluk - Vittal village - S.No. 459/44 - Kumaki land. ~~Fish market - Panchayat Board~~ Vittal - Rights of Kumakidar, - Instructions issued.

F 704/40 [From the Coll. of S. Kanara C.No. 753/40-A3 & 2/1-40] Q

Res. (Mys) 954 dated 9-4-40

~~The Collr. is informed that the~~ use of Kumaki lands is not enjoyed by landholders as a matter of right, but only as a concession exercised over Govt. waste by permission of the Govt. The Collr's attention is invited, ~~in this connection~~ to B.P. Mis. 2926 & 14.12.26. When applications are made for the alienation of Kumaki lands for public purposes, it will have to be decided in each case whether the needs of the Kumakidar are so great as to outweigh the demand for the public purpose. Prima facie

... ust be given preference.
Whether the Kumakidar had applied for the land or not is a matter of minor importance in such cases.
Where necessary, the Kumakidar may be heard before deciding to allot the land for a public purpose.

~~By 4.40~~ ~~See Pat reserve~~
3.4.40 Peer might receive Kumaki land as part reserve for peechiva han wear. S. persons vote

See attached copy of Kolar D also entitled Wear D dated as per 130 of Kol Mirasi Manual, 1894, an amch reference made B.P. No. 5063 D 13.8.1863

To
The Collr. of S. Kanara
(with Collrs D. Dis. 5261 D 21.12.39 returned

Yours [illegible]
dear

18/6/4/40

No. 026

For Insurance Notices see reverse. Stamps affixed except in case of uninsured letters not exceeding 2½ tolas or one ounce in weight or on which no ac knowledgment is due.

Rs. As.
Date-stamp.

Received a registered *
addressed to
Collr. of S. Kanara

CHEPAUK
11 APR 40
4 30 PM

Initials of Receiving Officer.

* Write here "letter," "postcard," "packet" or "parcel" with the word "Insured" before it when necessary.

If insured.
"Insured for" Rs. (in figures) (in words)
Insurance fee Rs. As. Weight (in words). Rates Tolas
Name and address of sender.

H 2

AS (Ka)

Note file

Alienation Land - (South Kanara) - Puttur Taluk - Vittal village - S. No. 458 Kumaki land - Fish market - Panchayat Bd. Vittal.

E.704/40. [Govt. Gold. & S. Kanara, G.O. No. 753 (Rev) dy. 29.1

Jo AS.

The President, Panchayat Board, Vittal applied to the Govt. of S. Kanara for the alienation of R.S. No. 458/11 of Vittal village, Puttur taluk, for the purpose of a fish market. The plot stands registered as assessed waste and forms common Kumaki to the owners adjoining Kadim lands. The Kumakidars object to the alienation. The proposal was dropped by the Govt. as the site was not approved by the Health Deptt. and that the Panchayat Board has not sufficient funds for the construction of the market.

In this connection, the Govt. requests the orders of the Board on the following points:-

whether an application for Kumaki land for a public purpose overrides the rights of Kumakidars

(ii) if the land is not applied for by

Kumaki dars before the application for alienation is received, and

(2) if the land is applied for by the Kumaki dars as darkhast and a local body applies for alienation about the same time.

"Kumaki" land is defined in the Sanskrit Kanara A. Manual, as "land which is limited to 100 yards from the cultivated land to which it has been attached". It also states therein that "Kumaki land is usually given as darkhast for cultivation except to the owner of the adjoining land". When an application for the assignment is received, the relevant Form A-1 shows besides it being posted on the darkhast land itself, be served on the registered holders, or mulgeni, wakhvai or vatandars for having Kumaki privileges over any part land applied for. For certain details see B.S.O. 15-(40)-Part 6. The procedure is to be followed when lands are assigned. The question for consideration is now shall the Kumaki privileges will avail against a land is applied for an alienation for a public purpose. On the bottom of the file, it is stated that the Kumaki dars has right over the Kumaki land and that

If any individual attention is in this connection, minded to [illegible] S/13 Dn, 9-8-1906 wherein the Sat. Govt. state that the use of Kumaki lands is not enjoyed by landholders as a right, but is a concession exercised over Govt. waste by permission of the Govt. It is also ordered therein, that the use of the terms "rights" in connection with Kumaki lands should be avoided. There is pending instructions for dealing with Kumaki lands (waste lands within Kumaki limits of wargdars) lying adjacent to a road or through which a road passes, the Govt. have also stated that the Kumakidars have no absolute right to have them assigned on patta and that they should not be assigned without the permission of the Collr. and without consulting the Local Board concerned. If therefore, roads, then Kumaki lands are required for a public purpose, the Kumaki privilege will not avail and that such lands can be alienated for the public purpose overriding the Kumaki privilege.

Privilege is used in

8 & 9 (G)

d 4 para 2 offg of (H) Mis 4576 4-12-26

The indexes have been looked into and no precedent where a Kumaki land was alienated for a public purpose, is readily traceable. The Collr offers

Top. opp. 417 (U)

Note by A.S.(L.R.)

It appears unnecessary to call for record

The solution would be very simple. In each case, it will have to be decided whether the needs of the kumakidar are so great as to outweigh the demand for a public purpose. Prima facie, the latter must be given preference. In the District Manual of 1894, it is stated at p.130 that the Govt. reserve their right to give kumaki land on darkhast for cultivation even to persons other than the owner of the adjoining land. In it, reference is made to B.P. No. 5063, dated 13-8-1863 which was being followed in the district. It has been clearly laid down in 1926 that the kumakidar has no right but is given only a privilege and cannot, for instance, be given land required for use as a road. Whether the kumakidar had applied for it or not is a matter of minor importance. Where necessary, the kumakidar may be heard before

note for Y. | deciding to allot the land for a public purpose. The Collr. may be informed on the above lines. For orders.

1.4.40

2/4

Extract given to Sec'tn for necessary action

SECY. 2 APR 1940

3/4

Why happened to an proposal to re-drop RSO. 15-40.?

A.S. (Y R)

To A.S.

Draft. Submitted

3.4.40

18/8/4

Full Board

Min 954
9.4.40

I.A.	A.D.S. and L.R.	Assistant Secretary			Jt. Secy.	Secy.	M-4	M-3	M-2
		Land Rev.	Settle-ment.	Sep. Rev.					

1. Open file seen by
2. Final draft seen by
3. Now circulated to
4. Initials.

Passed for record.

Secretary
Joint Secretary.

A.S. (C.W.).

A.S. (L.R.).

A.S. (Sett.).

A.S. (Excise).

A.D.S. & L.R.

I.A.

Note:- Entries not required to be scored out.